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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,279	08/19/2005	Alan James Roddis	9623-6	8903
20792	7590	07/20/2009		
MYERS BIGEL, SIBLEY & SAJOVEC			EXAMINER	
PO BOX 37428			PATEL, VISHAL A	
RALEIGH, NC 27627				
			ART UNIT	PAPER NUMBER
			3676	
			MAIL DATE	DELIVERY MODE
			07/20/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/519,279

Applicant(s)

RODDIS, ALAN JAMES

Examiner

Vishal Patel

Art Unit

3676

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-7,10-12,14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-7,10-12,14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 19-20 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Same reason as not electing claim 13.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 19-20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The election/restriction is made final.

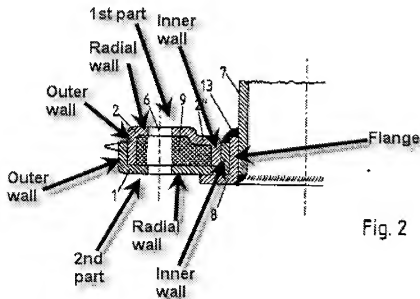
Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4-7, 10-12 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirchkamp (DE 2838514 A1).

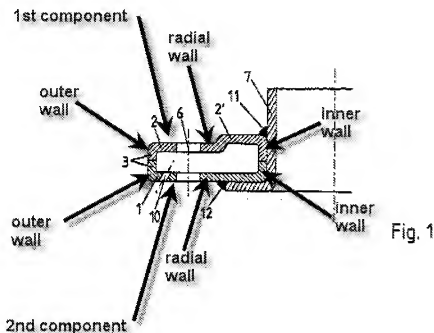
Kirchkamp discloses a mechanical seal (figure 2) having a gland plate (e.g. plate formed by 1, 2 and 9 attached to form a seal on 7). The gland plate has structure claimed by applicant in claims 1, 4-7, 10-12 and 14-15.



Kirchkamp further discloses the gland plate comprising a rigid, annular element comprising at least one two axially radially extending walls (e.g. radial wall of 1 and 2 of figure 2) having a thickness, the radially extending walls having a center orifice (e.g. center orifice that receives 8) in the center of the radially extending walls and an outer circumferential perimeter extending around an outer edge of the radially extending walls, an outer wall extending axially and continuously between the radially extending walls and around the outer circumferential perimeter of the radially extending walls (e.g. see above figure), an inner wall extending axially and continuously between the radially extending walls (inner walls of figure above) and around the center orifice, at least one additional orifice (e.g. 6 in the radially extending walls) formed in the at least one two radially extending walls between the center orifice and the outer circumferential perimeter of the radially extending walls. The respective inner circumferential walls and respective outer circumferential walls of the first and second components are brought into juxtaposition and held in engagement to form a hollow, annular structure, the respective

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orifices of the first and second components are aligned to form at least one bolt hole (e.g. additional orifice) and the respective circumferential flanges of the first and second components abut (intended use, the first and second component are capable of being juxtaposition). The flanges are defined by the inner walls that form the orifices. The element is filled with concrete, plastic or water (e.g. material of 9).



Regarding limitations of claims 7 and 11: The limitations formed by pressing or punching operation is considered to be method limitations (e.g. [E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process).

Kirchkamp discloses the invention substantially as claimed above but fails to disclose that the at least one additional orifice having a first axially extending circumferential flange in one of the two radially extending walls and a second axially extending circumferential flange in the other of the two radially extending walls, the first and second flanges are joined such that the first and second flanges extend around the at least one additional orifice and between the two axially spaced radially extending walls. Hall discloses washer (e.g. 2) having a bolt hole (e.g. 4) on two radially extending walls, the bolt hole having a first axially extending circumferential flange (e.g. collar 3) in one of the two radially extending walls and a second axially extending circumferential flange (e.g. second collar 3) in the other of the two radially extending walls, the first and second flanges are joined such that the first and second flanges extend around the at least one additional orifice and between the two axially spaced radially extending walls (figures). It would have been obvious to one having ordinary skill in the art at the time of the invention to have the at least one additional orifice of Kirchkamp to have axially extending circumferential flange as taught by Hall, to provide easy assembly (e.g. page 1, lines 80-85 of Hall).

Kirchkamp discloses the claimed invention except that at least one wall has thickness of from about 0.4 to 1mm. Discovering an optimum range of a result effective variable involves only routine skill in the art. In re Kulling, 895 F.2d 1147, 14 USPQ 2d 1056. Without the showing of some unexpected result. Since applicant has not shown some unexpected result the inclusion of this limitation is considered to be a matter of choice in design. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a thickness chosen from 0.4 to 1mm to provide cost savings and provide mechanical expedience of the invention.

Regarding the limitations of plastic in claims: Kirchkamp discloses the claimed invention except for the material 9 to be plastic, concrete or water. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the synthetic material of Kirchkamp to be replaced by plastic or concrete, since it has been held to be within the general skill of a worker in the art to select a know material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Response to Arguments

4. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is 571-272-7060. The examiner can normally be reached on 6:30am to 8:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer H. Gay can be reached on 571-272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. P./
Primary Examiner, Art Unit 3676

/Vishal Patel/
Primary Examiner, Art Unit 3676